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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,747	10/28/2003	Oyvind Stromme	10022/569	7557
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EXAMINER				
SMITH, CHENEA				
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2421				
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Advisory Action
Before the Filing of an Appeal Brief

Application No.

10/696,747

Applicant(s)

STROMME, OYVIND

Examiner

CHENEA SMITH

Art Unit

2421

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 16 June 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(g).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☒ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____
Claim(s) objected to: _____
Claim(s) rejected: 1-3,7-18 and 20-22
Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see below.
12. ☐ Note the attached Information *Disclosure Statement*(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/KRISTINE KINCAID/
Supervisory Patent Examiner, Art Unit 2421

1. In response to Applicant's arguments regarding claim 22 on pages 9-10 that, "Claim 22 was rejected as being anticipated by Bulman. In discussing the basis of the anticipation rejection, the Examiner relies on multiple sections of the Bulman reference. See Office Action pp. 8-9. Specifically, the Examiner's rejection relies on both col. 11, lines 22-29 (Example 5) and col. 12, lines 29-40 (Example 6) of Bulman. See Office Action, p. 9. However, Example 5 and Example 6 encompass two distinct embodiments of the invention disclosed in Bulman. Bulman expressly distinguishes between the two distinct embodiments by stating "[i]n contrast to the system above [Example 5], an alternative system is provided [Example 6]." See col. 12, lines 13-14.

An anticipation rejection may not rely on the combination of multiple, distinct embodiments within the same reference. *Net MoneyIn, Inc. v. Verisign, Inc.*, 545 F.3d 1359, 1369 (Fed. Cir. 2008); *Ex parte Cucerzan*, Appeal 2009-8190 (BPAI Apr. 29, 2011) (reversing Examiner's anticipation rejection because the examiner relied on multiple distinct embodiments within a single reference). Accordingly, the rejection improperly combines two distinct embodiments of the Bulman reference in rejecting claim 22 as being anticipated by Bulman. Thus, Assignee respectfully requests that the rejection of claim 22 under 35 U.S.C. § 102(e) be withdrawn", the Applicant should please note that the difference between the embodiments of Example 5 and Example 6 is that Example 6 provides an alternative system that allows production to occur in real-time and be synthesized, sequenced and directly recorded on video tape (see Bulman, col 12, lines 4-18), wherein Example 5 is not produced in real time and recorded directly to video tape (see Bulman, col 11, lines 40-43). Both examples 5 and 6 teach storing a set of computer-generated views of a picture, each view associated with a unique orientation index/indices identifying the physical orientation of the view (see Bulman, col 11, lines 22-29, col 12, lines 21-28 and col 13, lines 29-33). The cited section of Bulman (col 11, lines 22-29) simply provides a more extensive explanation of the stored images in memory that is included in both embodiments.

2. In response to Applicant's arguments regarding claim 1 on page 11, lines 10-20 that, "Bulman fails to disclose selecting an image with an orientation index matching the determined orientation of a moving object as recited in claim 1. As disclosed in the specification, determining the orientation of a moving object involves a calculation based on the orientation coordinates (yaw, pitch, and roll) of the moving object and data from the camera. See para. [0040]. As such, the determined orientation is a calculated numerical value. Similarly, as recited in claim 1, the orientation index identifies the physical orientation of the computer-generated views. Thus, the selecting step in claim 1 involves a direct numerical comparison between the determined orientation of the predetermined area on the moving object and the orientation indices of the computer generated views. At most, Bulman describes selecting a facial image for a "cohesive match" between the background and foreground image. Bulman makes no mention of comparing orientation indices", and similar subsequent arguments regarding independent claims 12 and 20, the Examiner respectfully disagrees.

Bulman discloses that a sequence of images of a subject is obtained, wherein the images (hereinafter, foreground images) of the object differ in orientation and positioning, with the differences being recorded in conjunction with the image (see Bulman, col 13, lines 29-33) in a memory storing the library of foreground images (see Bulman, col 11, lines 22-29, col 12, lines 20-28). Bulman further discloses that a file is provided with a background image that includes information relating time codes with the desired positioning and scaling of the required foreground image (see Bulman, col 14, lines 6-10), such that one of the foreground images may be selected (see Bulman, col 13, lines 33-37 and col 14, lines 13-17). Therefore, a comparison of the different orientation information must be compared to the information of the time codes of the background image in order for Bulman's system to complete its matching process (see Bulman, col 13, lines 33-37 and col 14, lines 6-17), and this comparison process, then, reasonably meets the limitation of selecting an image with an orientation index matching the determined orientation of an object", as claimed.

Furthermore, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "the determined orientation is a calculated numerical value...involving a calculation based on the orientation coordinates (yaw, pitch, and roll)", and "a direct numerical comparison") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

3. In response to Applicant's arguments regarding claim 1 on page 12, lines 3-11 that, "Furthermore, Bulman fails to disclose comparing two orientation values. According to Bulman, the orientation of the related background image is never determined, as the only comparison concerns finding a "cohesive match" to the background image. See col. 13, lines 33-37. Selecting a "cohesive match with the background image" cannot reasonably be interpreted to encompass numerically determining the orientation of the background image. Therefore, Bulman fails to disclose a comparison of two orientation values and does not teach "selecting, from orientation indices associated with the stored computer generated views, the orientation index of the computer generated view matching the determined orientation of said predetermined area of said moving object," as recited by claim 1", and similar subsequent arguments regarding independent claims 12 and 20, the Examiner respectfully disagrees.

First, in response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "orientation values", or "numerically determining the orientation") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). Furthermore, as Bulman discloses that a cohesive match with a background image is the desired in selecting the foreground image, such that the closest image is actually selected, a comparison of the orientation of the background image with the orientation of the foreground image must be done (see Bulman, col 13, lines 33-37, col 14, lines 6-17 and Fig. 11), and therefore, orientation information of the background image must be included, i.e., the information relating the SMPTE time codes with the desired positioning and scaling of the foreground image may reasonably be the orientation information of the background image, see Bulman, col 14, lines 6-9.

4. In response to Applicant's arguments regarding new claims 23 and 24, the newly added claims include newly added limitations that raise new issues that require further search and consideration..